



**Federal Communications Commission
Washington, D.C. 20554**

October 4, 2019

**In Reply Refer To:
1800B3-RG**

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In re: W284DA, Chicago, Illinois
Facility ID No. 155174
File No. BSTA-20190730AAR

Informal Objection

Dear Counsel:

The Media Bureau (Bureau) has before it: (1) the referenced application for Special Temporary Authority (STA Application), filed on July 30, 2019, by Polnet Communications, LTD. (Polnet or Licensee), licensee of FM Translator Station W284DA, Chicago, Illinois (W284DA or Station); and (2) an "Informal Objection" (Objection) filed on August 7, 2019 by Illinois District Council of the Assemblies of God (IDCAG), licensee of Station WCFL(FM), Morris, Illinois (WCFL).¹ For the reasons set forth below, we deny the Objection and grant the STA Application, as conditioned herein.

Background. On February 25, 2019, the Bureau found that the Station, licensed on Channel 284,² was causing interference to certain listeners of co-channel Station WCFL and ordered it to cease operations.³

On July 30, 2019, Polnet filed an STA Application which Polnet states the proposed translator will reduce interference to WCFL by rotating the antenna pattern 27 degrees clockwise. No other changes are proposed. Polnet argues that all the complainant's locations are no longer in the interference zone based on the signal strength of the proposed STA facility

¹ Also, before us are Polnet's August 9, 2019, "Opposition to Informal Objection" (Opposition) and IDCAG's August 12, 2019, "Reply to Opposition to Informal Objection" (Reply).

² See File No. BLFT-20170821AAR, granted on August 28, 2017.

³ See "Letter from James D. Bradshaw, Senior Deputy Chief, Audio Division, Media Bureau to Joseph C. Chautin, III, Esq. and Joan Stewart, Esq.," ref 1800B3-KV (Feb. 25, 2019) (*Letter Decision*).

and WCFL. The interference zone was calculated by determining all locations where the proposed translator station's signal is greater than 20 dB⁴ below the signal level of WCFL. Polnet provides a table of all 42 locations (those specified in the initial Complaint of Interference) that shows that at each location the proposed STA facility is less than 20 dB below the WCFL signal.

On August 7, 2019, IDCAG objected to the STA Application, arguing that it does not resolve the interference to all identified listener locations. IDCAG states that Polnet is relying on the new interference rules that became effective on August 13, 2019. IDCAG claims that the ruling on the station before the effective date requires W284DA to comply with the old interference rules.

On August 9, 2019, Polnet responded that the Letter Decision states that "any request by Polnet to operate with reduced/temporary facilities on this same channel will only be granted upon a demonstration that the proposed facilities will not cause interference at all of the listening location provided by the remaining listeners." Polnet claims that the STA application accomplishes this requirement and once W284DA can return to the air, W284DA can prove that the interference has been resolved.

On August 12, 2019, IDCAG filed a reply to Polnet's response stating that this STA request must be dismissed since the interference has not been eliminated, therefore, the station should not be allowed to commence operation.

Discussion. Informal objections, like petitions to deny, must provide properly supported allegations of fact that, if true, would establish a substantial and material question of fact calling for further inquiry regarding whether grant of the application would be *prima facie* inconsistent with the public interest.⁵ We find, as discussed below, that IDCAG has raised no such facts and that grant of the STA Application, as conditioned herein, will serve the public interest.

The Communications Act of 1934, as amended (Act) permits the Commission to grant STA in extraordinary circumstances requiring temporary operations in the public interest.⁶ In similar circumstances, the Bureau found that grant of a rule compliant STA was warranted to return a silent translator station to the air with temporary facilities after authorized facilities caused interference to a primary station.⁷

Nevertheless, we are mindful of the history of this proceeding, as highlighted by IDCAG, and our earlier determination that Polnet failed to resolve the IDCAG interference complaints. Because we provided Polnet ample opportunity to resolve this interference before terminating its operating authority, the burden is now on Polnet to prove that any future operation of the

⁴ For co-channel relationships, W284DA's signal strength must be greater than 20 dB below the signal strength of WCFL(FM) for predicted interference.

⁵ See 47 U.S.C. § 309(d)(1); *Astroline Comm'ns Co. v. FCC*, 857 F.2d 1556, 1561 (D.C. Cir. 1988).

⁶ See 47 U.S.C. § 309(f). There is no specific provision within Part 74 of the Rules pertaining to STA requests by FM translators. The staff's practice is to consider such requests under the same standards applicable to full service broadcast stations, *i.e.*, the Section 73.1635 requirement to describe the proposed operations and the necessity therefor. See 47 CFR § 73.1635(a)(2); *see, e.g., Infinity Radio Holdings, Inc.*, Memorandum Opinion and Order, 21 FCC Rcd 14099 n.7 (MB 2006).

⁷ See *e.g., Apple 107.1, Inc.*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 28 FCC Rcd 15722 (MB 2013).

Translator in Chicago will not cause interference to listeners of WCFL. Polnet's STA Request has not met this burden. Indeed, after further analysis, we have determined that grant of the STA Request likely would continue to cause interference to WCFL in the Southwest direction since the power that would be transmitted in that direction has not been reduced. It appears, however, that operation with the proposed STA facility and the ERP reduced to 50 watts should significantly reduce the likelihood of interference. Accordingly, we grant the STA, except with a reduced power of 50 watts ERP. We will also adopt several conditions to improve the likelihood that the STA will not cause interference. We will limit the duration of the proposed STA facilities to 90 days. We also do not anticipate extension of the STA, absent an application for modification filed by Polnet to permanently implement the STA facilities. If, however, the Station's STA facilities cause interference to WCFL(FM), then we expect Polnet to promptly address the inference and the parties to work in good faith to resolve said interference prior to submitting further filings to the Commission. If the parties are unable to resolve the interference, then we will require the Station to cease operations and will address the Petition in the interference proceeding.

Conclusion. Accordingly, IT IS ORDERED that the Request for Special Temporary Authority filed on July 30, 2019, by Polnet (File No. BSTA-20190730AAR) to resume operations of FM Translator station W284DA, Chicago, Illinois IS GRANTED for a term expiring 90 days from the date of this decision, subject to the following conditions: (a) ERP shall be limited to 50 watts; (b) Polnet shall work with IDCAG to immediately resolve any newly reported instances of interference, and if Polnet is unable to resolve such interference, we will terminate the Authority; and, (c) within the term of the STA, Polnet must apply for a construction permit to permanently operate the translator station on a non-interfering basis.

IT IS FURTHER ORDERED that the Informal Objection, filed on August 7, 2019, by IDCAG, LLC IS DENIED.

Sincerely,

A handwritten signature in blue ink, appearing to read 'J. Bradshaw', is written over a horizontal line.

James D. Bradshaw
Senior Deputy Chief
Audio Division
Media Bureau